

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

Adoption of Chapter 147
Hawaii Administrative Rules

June 1, 1999

SUMMARY

Chapter 147 of Title 3, Hawaii Administrative Rules,
entitled "Crisis Purchase of Service", is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 3

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

SUBTITLE 11

PROCUREMENT POLICY BOARD

CHAPTER 147

CRISIS PURCHASE OF SERVICE

Subchapter 1 Purpose and Scope

§3-147-101 Purpose
§3-147-102 Scope

Subchapter 2 Core Procedures

§3-147-201 Determination of crisis condition
§3-147-202 Requirement of competition as
practicable

Subchapter 3 Content Requirements

§§3-147-301 to 3-147-400 (Reserved)

Subchapter 4 Allowable Communications

§§3-147-401 to 3-147-500 (Reserved)

Subchapter 5 State Procurement Office

§§3-147-501 to 3-147-600 (Reserved)

Subchapter 6 Miscellaneous Procedures

§3-147-601 Crisis purchase of service record
 of procurement actions

SUBCHAPTER 1

PURPOSE AND SCOPE

§3-147-101 Purpose. The purpose of this chapter is to implement section 103F-406, HRS, which establishes the crisis purchase of service method of procurement, by providing rules and procedures for the use of this method of procurement. [Eff JUN 19 1999] (Auth: HRS § 103F-106) (Imp: HRS § 103F-406)

§3-147-102 Scope. (a) The crisis purchase of service method of procurement may be used to procure health and human services when both of the following conditions are met:

- (1) The head of the purchasing agency has prepared a written determination that a crisis condition exists, as provided in section 3-147-201; and
- (2) No other method of procurement could be used to address the health and human service needs created by the crisis.

(b) Use limited to current needs only. The crisis purchase of service method of procurement may be used only to purchase the service or services that are necessary to meet the current needs generated by the crisis and not to exceed six months, or upon a written finding of good cause by the chief procurement officer, twelve months. Subsequent requirements shall be obtained using alternate procurement methods, such as the competitive purchase of service method.

[Eff JUN 19 1999] (Auth: HRS § 103F-106) (Imp:
HRS § 103F-406)

SUBCHAPTER 2

CORE PROCEDURES

§3-147-201 Determination of crisis condition. (a) Before using the crisis purchase of service method of procurement, the head of a purchasing agency shall prepare a written determination that a crisis condition exists.

(b) Crisis condition defined. A crisis condition is a circumstance or situation in which both of the following requirements are met:

- (1) The life, health, or safety of any person is seriously threatened by situations including but not limited to the following:
 - (A) Domestic violence;
 - (B) Physical or mental illness;
 - (C) Physical or mental injury;
 - (D) Homelessness;
 - (E) Lack of food; or
 - (F) Any other circumstance justifying the immediate intervention by the purchasing agency; and
- (2) The circumstance or situation generates an immediate and serious need that cannot be met by any other purchasing agency that provides health and human services.

(c) Contents of written determination. The written determination that a crisis condition exists shall include:

- (1) The nature of the crisis condition;
- (2) The name of the proposed provider;
- (3) The amount of expenditure;
- (4) The description of the service;

- (5) The reason for selection of the provider; and
- (6) Any other information that the head of the purchasing agency deems appropriate for inclusion.

(d) Approval of chief procurement officer. Before a purchasing agency actually makes a purchase of health and human services under this chapter, the written determination required under this section shall be submitted to the chief procurement officer for approval. If such submission for approval is not practicable, then the head of the purchasing agency may conclude the purchase and subsequently submit the matter for approval to the chief procurement officer.

(e) Contract file. The written determination that a crisis condition exists required by this section shall be included in the contract file. [Eff JUN 19 1999]
(Auth: HRS § 103F-106) (Imp: HRS § 103F-406)

§3-147-202 Requirement of competition as practicable. (a) In order to help insure that the state obtains the best contract possible to address the crisis condition, such competition as is practicable under the circumstances shall be obtained.

(b) Practicable competition. Depending on the amount of time available, possible methods of obtaining practicable competition include, but are not limited to:

- (1) Using a list of providers compiled under section 3-141-401 to solicit three, or as many as possible under the circumstances, quotations for the required health and human services;
- (2) Soliciting quotations from providers that have demonstrated competence and reliability in their dealings with the purchasing agency;
- (3) Without soliciting any quotations at all, contracting with the provider that, in the purchasing agency's judgment, is best qualified to provide the required health and human services; or

- (4) Any other method reasonably calculated to secure whatever level of competition is practicable. [Eff JUN 19 1999]
(Auth: HRS § 103F-106) (Imp:
HRS § 103F-406)

SUBCHAPTER 3

CONTENT REQUIREMENTS

§§3-147-301 to 3-147-400 (Reserved).

SUBCHAPTER 4

ALLOWABLE COMMUNICATIONS

§§3-147-401 to 3-147-500 (Reserved).

SUBCHAPTER 5

EXPEDITING PROCEDURES

§§3-147-501 to 3-147-600 (Reserved).

SUBCHAPTER 6

MISCELLANEOUS PROCEDURES

§3-147-601 Crisis purchase of service record of procurement actions. (a) The heads of purchasing agencies or procurement officers shall maintain records by fiscal year of all crisis purchase of service procurements made by their respective agencies for a minimum of the past five fiscal years.

(b) Annual reports of crisis purchase procurements. By the fifteenth day of August of each year, the heads of purchasing agencies or procurement

officers shall make reports to the administrator of all crisis purchase of service procurements made by their respective agencies for the immediately preceding fiscal year. The report shall be made in the format prescribed by the administrator.

(c) Annual consolidated report. By the first day of October of each year, the administrator shall make a consolidated report of all crisis purchase of service procurements made during the immediately preceding fiscal year. A copy of this report shall also be sent to the procurement policy board.

[Eff JUN 19 1999] (Auth: HRS § 103F-106) (Imp: HRS §§ 103F-301, 103F-404)

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

Chapter 147, Hawaii Administrative Rules, on the Summary Page dated June 1, 1999, was adopted on June 1, 1999, following public hearings held on May 11, 12, 18, 19, 20, 1999 after public notice was given in the Hawaii State and County Public Notices on April 5, 1999.

The adoption of chapter 147 shall take effect ten days after filing with the Office of the Lieutenant Governor.

Robert E. Oyama, Chairperson
Procurement Policy Board

Raymond H. Sato
State Comptroller

APPROVED:

Benjamin J. Cayetano
Governor
State of Hawaii

Dated: _____

APPROVED AS TO FORM:

Deputy Attorney General

JUN 09 1999
Filed